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UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON

**JAMES M. CLEAVENGER,**

Case No. 6:13-cv-01908-DOC

Plaintiff,

vs.

**CAROLYN McDERMED, BRANDON  
LEBRECHT, and SCOTT CAMERON,**

Defendants.

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**DEFENDANTS' OBJECTIONS TO  
PLAINTIFF'S PETITION FOR  
SUPPLEMENTAL ATTORNEY FEES,  
NON-TAXABLE COSTS AND COST  
BILL**

**I. INTRODUCTION**

In light of the court's Order re: Plaintiff's Petition for Attorney's Fees and Non-Taxable Costs, and Bill of Costs (Dkt. No. 237), Defendants submit the following objections to Plaintiff's Petition for Supplemental Attorney's Fees, Non-Taxable Costs and Cost Bill.

## **II. ATTORNEY'S FEES**

### **A. Hourly Rate**

The court has determined that the reasonable rates for two of Plaintiff's attorneys, his law clerk, and his "trial technologist" are lower than the rates requested by Plaintiff. Those lower rates should be applied to the supplemental fees.

#### **1. Gregory Kafoury**

Plaintiff seeks a rate of \$500 an hour. The court found \$400 an hour to be the reasonable rate for Mr. Gregory Kafoury's work.

#### **2. Mark McDougal**

Plaintiff seeks a rate of \$500 an hour. The court found \$400 an hour to be the reasonable rate for Mr. McDougal's work.

#### **3. David Hess**

Plaintiff seeks supplemental fees for Mr. Hess in his capacity as a trial technologist. None of the supplemental time billed by Mr. Hess, a paralegal, relates to the function of a trial technologist. See Hess Decl. (Dkt. No. 234). Regardless, the court has determined the reasonable hourly rate for Mr. Hess's work in both his trial technologist and paralegal capacities is \$125 an hour.

#### **4. Dustin Hawkins**

Plaintiff seeks a rate of \$175 an hour for his law clerk's services. The court found \$120 an hour to be the reasonable rate for Mr. Hawkins' work.

### **B. Reasonableness of Hours Expended by Gregory Kafoury**

Mr. Gregory Kafoury billed four hours to "assist" with the drafting and revision of Plaintiff's response to Defendants' post-trial motions. He then billed another two and half hours to watch the hearing on those motions. As with the majority of Mr. Gregory Kafoury's participation at the trial, this "assistance" was unnecessary and unreasonable. Attorneys Adam

Kiel, Jason Kafoury, and Mark McDougal all billed significant hours for preparing the post-trial motions. Those three attorneys also billed 23 hours for preparing for and attending the hearing on the post-trial motions. See Kiel, J. Kafoury and McDougal Decls. (Dkt. Nos. 231, 232, 233). At some point the piling on of “assistance” becomes unreasonable. Plaintiff was adequately represented by the three attorneys who made substantive contributions to the post-trial process. Mr. Gregory Kafoury’s time billed for unnecessarily reading the motions and sitting at the hearing should be deemed unreasonable and not reimbursable here.

### **III. OBJECTION TO COST BILL**

Plaintiff has submitted a supplemental Cost Bill in the amount of \$3,887.10 for the cost of a copy of the official trial transcript. Defendants do not object to that cost. Plaintiff has, however, also submitted a supplemental bill for \$582.25 for transcripts on September 8 and 23, 2015. These transcripts are part of the trial transcript. Plaintiff does not explain why he should recover twice for those fees. That cost should be rejected.

### **IV. CONCLUSION**

For the foregoing reasons, Plaintiff’s supplemental attorney’s fees and costs should be reduced as follows:

#### **A. Reduction in Attorney’s Fees**

##### **1. Gregory Kafoury**

Requested: \$3,750.00

Reduced to: \$ 400.00

##### **2. Mark McDougal**

Requested: \$11,430.00

Reduced to: \$10,160.00

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**3. David Hess**

Requested: \$1,174.75

Reduced to: \$ 793.75

**4. Dustin Hawkins**

Requested: \$1,207.50

Reduced to: \$ 828.00

**B. Reduction in Costs**

Requested: \$4,469.35

Reduced to: \$3,887.10

DATED this 25th day of March, 2016.

HARRANG LONG GARY RUDNICK P.C.

By: s/ Andrea D. Coit  
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Attorneys for Defendants

## CERTIFICATE OF SERVICE

I certify that on March 25, 2016, I served or caused to be served a true and complete copy of the foregoing **DEFENDANTS' OBJECTIONS TO PLAINTIFF'S PETITION FOR SUPPLEMENTAL ATTORNEY FEES, NON-TAXABLE COSTS AND COST BILL** on the party or parties listed below as follows:

- Via CM / ECF Filing
- Via First Class Mail, Postage Prepaid
- Via Email
- Via Personal Delivery

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**CERTIFICATE OF SERVICE**